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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,097	04/21/2004	Larry Fish	32955-CIP	5994

7590
Hovey Williams LLP
Suite 400
2405 Grand Blvd.
Kansas City, MO 64108

10/17/2005

EXAMINER

LA, ANH V

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/829,097	FISH, LARRY	
	Examiner	Art Unit	
	Anh V. La	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) ¹ | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/21/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayer in view of Schuermann.

Regarding claim 1, Meyer discloses a function monitor comprising a detector 19, 20, a transmitter 21 transmitting a status signal over a wireless connection, and a base unit 26-30 receiving the status signal and discerning 30 the detector's status from the status signal. Meyer does not disclose the base unit operable to power the transmitter over the wireless connection. Schuermann teaches the use of a base unit 10, 12, operable to power a transmitter over a wireless connection. It would have been obvious

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at the time the invention was made to a person having ordinary skill in the art to include the base unit operable to power the transmitter over the wireless connection to the monitor of Meyer as taught by Schuermann for the purpose of supplying power to the transmitter.

Regarding claims 3-4, Meyer as modified by Schuermann discloses all the claimed subject matter as set forth above in the rejection of claim 1, but still does not disclose the base unit continuously wirelessly transmitting electromagnetic energy that powers the transmitter (claim 3) and the transmitter using only power wirelessly received from the base unit (claim 4). Schuermann further teaches the use the base unit continuously wirelessly transmitting electromagnetic energy that powers the transmitter and the transmitter using only power wirelessly received from the base unit. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include the base unit continuously wirelessly transmitting electromagnetic energy that powers the transmitter and the transmitter using only power wirelessly received from the base unit an adjustable pressure switch to the monitor of Meyer as taught by Schuermann for the purpose of supplying power to the transmitter.

Regarding claim 9, Meyer discloses the transmitter modifying the status signal in response the detector being actuated.

Regarding claim 10, Meyer discloses a serial number (col. 4, lines 15-25).

Regarding claim 11, Meyer discloses the transmitter transmitting the status signal in response the detector being actuated.

Regarding claim 12, Meyer discloses the status signal consisting of information identifying the transmitter (col. 4, lines 15-25).

4. Claims 2, 5-8, 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer and Schuermann as applied to claim 1 above, and further in view of Newman.

Regarding claims 2, 5-8, 13, 14, 17-19, Meyer as modified by Schuermann discloses all the claimed subject matter as set forth above in the rejection of claim 1, but still does not disclose an adjustable pressure switch (claims 2, 13, 14), a position switch (claims 5-6, 17, 18), a level switch (claims 7, 19), and a temperature switch (claim 8). Newman teaches the use of an adjustable pressure switch, a position switch, a level switch, and a temperature switch (column 5, lines 20-55). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include an adjustable pressure switch, a position switch, a level switch, and a temperature switch to the monitor of Meyer (modified by Schuermann) as taught by Newman for the purpose of monitoring the pressure within a hydraulic system and monitoring a plurality of operation status of the system.

Regarding claims 15-16, Meyer as modified by Schuermann and Newman discloses all the claimed subject matter as set forth above in the rejection of claim 13, but still does not disclose the base unit continuously wirelessly transmitting electromagnetic energy that powers the transmitter (claim 15) and the transmitter using only power wirelessly received from the base unit (claim 16). Schuermann further

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teaches the use the base unit continuously wirelessly transmitting electromagnetic energy that powers the transmitter and the transmitter using only power wirelessly received from the base unit. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include the base unit continuously wirelessly transmitting electromagnetic energy that powers the transmitter and the transmitter using only power wirelessly received from the base unit an adjustable pressure switch to the monitor of Meyer as taught by Schuermann for the purpose of supplying power to the transmitter.

Double Patenting

5. Claims 1-4, 11, 12, 15, 16, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20, respectively, of U.S. Patent No. 6,842,971. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-7 of U.S. Patent No. 6,842,971 contains all the limitations cited in claims 1-4 of the present invention.

6. Claims 5-8, 13, 14, 17-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,842,971 in view of Newman. Claim 1 of U.S. Patent No. 6,842,971 teaches all limitations cited in claims 5-8 but still does not disclose an adjustable pressure switch, a position switch, a level switch, and a temperature switch. Newman teaches the use of

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an adjustable pressure switch, a position switch, a level switch, and a temperature switch (column 5, lines 20-55). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include an adjustable pressure switch, a position switch, a level switch, and a temperature switch to the invention of claim 1 of U.S. Patent No. 6,842,971 as taught by Newman for the purpose of monitoring the pressure within a hydraulic system and monitoring a plurality of operation status of the system.

7. Claims 9-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,842,971 in view of Meyer. Claim 1 of U.S. Patent No. 6,842,971 teaches all limitations cited in claims 5-8 but still does not disclose the transmitter modifying the status signal and a serial number. Meyer teaches the use of the transmitter modifying the status signal and a serial number (col. 4, lines 15-25). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include the transmitter modifying the status signal and a serial number to the invention of claim 1 of U.S. Patent No. 6,842,971 as taught by Newman for the purpose of identifying the transmitter.

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sticht, Fuge and Ceney teach monitoring systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V. La whose telephone number is (571) 272-2970.

The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANH V. LA
PRIMARY EXAMINER

Anh V La
Primary Examiner
Art Unit 2636

AI
September 19, 2005